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## **London Borough of Enfield**

### **Operational Report**

**Report of: Paul O'Donnell, Acting Investment and Resident Safety Programme Director**

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**Subject: District Heating Design and Installation – Shropshire House & Cheshire House - Part 1**

**Executive Director (Acting): Joanne Drew**

**Ward: Edmonton Green**

**Key Decision: 5313**

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### **Purpose of Report**

1. This report seeks approval to award the contract for design and installation of district heating to Shropshire and Cheshire Houses including the provision of hot water services, following notification of disconnection of the gas supply, by the gas provider, Cadent, following structural survey results considering the building's resilience in case of a gas explosion. This report also seeks approval of the overall project budget of £7,769,153.21 inclusive of the design and installation of the district heating, contingency, associated electrical upgrade works, associated asbestos removal and decorations, connection costs to the Heat Network, fees, and staff costs

### **Proposal(s)**

2. To approve a direct award on the Renewables & Energy Efficiency Works and Associated Consultancy Framework for design & installation of district heating & hot water, through a compliant framework.
3. To delegate authority to the Director of Housing and Regeneration to approve the award of a contract to bidder 1, following a tender process complaint with the councils CPRs, for the electrical lateral upgrades required to enable the District Heating installation at Shropshire and Cheshire Houses.
4. To delegate authority to the Director of Housing and Regeneration to approve the award of a contract to bidder 1, following a tender process complaint with the councils CPRs, for the necessary asbestos removal works and associated decorations and flooring in kitchens, on completion of the District Heating.

### **Reason for Proposal(s)**

5. The Council has been served notice of termination (of the gas supply) by Cadent, the gas carrier. As such, the Council must take steps to remove the gas service and provide an alternative source of heating and hot water to the **204** households

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at Shropshire and Cheshire Houses and the community hall at Shropshire House to maintain occupation of these blocks.

6. The requirement of these works is unplanned and thus the budgetary allowance has not been part of the procurement plan approved. The capital programme has been reviewed to prioritise requirements and ensure a budget allocation within the Housing Revenue account is allocated for these urgent works.
7. This procurement approach has been reviewed to ensure compliance with the Councils' procurement rules, to ensure that the programme delivers both value for money and attains the quality standards expected.
8. A compliant call off exercise was undertaken by Procurement for Housing under the Renewables & Energy Efficiency Works and Associated Consultancy Framework in accordance with the Public Contracts Regulations 2015 (PCR). For consideration and acceptance onto the framework all Tenderers were required to provide responses to set of quality questions. The tenders were evaluated on a 60/40 quality and cost split, in line with the procurement for housing agreed weighting criteria.
9. The proposed district heating will be eligible for circa £1m to £1.2m of ECO4 funding that will go some way to contributing to the cost of these works. The grant funding will be provided by the contractor as part of the energy Company Obligations scheme, round 4 (ECO4). This is a fuel poverty alleviation scheme that obligates the energy companies to provide grant funding to retrofit upgrade schemes to reduce the energy bills of poorer performing residential properties. EPC ratings current and post the installation completed by the contractor have confirmed that all 204 properties are eligible for the funding. This funding is subject to activities commencing in January 2023 and completing by the January 2024. Any prolongation to the programme could have an impact on the funding level as well as the costs for the DH works.

**Relevance to the Council's Plan**

10. The Council has a statutory duty to ensure homes are decent and safe. Disconnection of the gas supply without alternative provision having been made, would result in homes being classified as non-decent and unfit for habitation, therefore residents would need to be rehomed.

**Background**

11. Shropshire House and Cheshire House are both 18-storey occupied tower blocks built in the 1960s known to be of Large Panel Construction.
12. Following advice from the Ministry of Housing Communities & Local Government (MHCLG) for all owners of LPS building to assess the safety of their assets, structural engineers were commissioned to undertake instructive structural investigations to determine the robustness of the blocks. Alongside an audit on the construction of the blocks based on historical information. The construction details of the blocks obtained from this audit would then form the basis of the structural assessment to determine whether the construction of the blocks was sufficient to resist progressive collapse in the event of accidental loading from an internal gas explosion.

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13. The structural engineers report, has confirmed, following opening up of the Shropshire House structure, that the building does not meet the upper (35kn) test requirements and as such the gas mains, providing heating and hot water to flats, must be de-commissioned. Whilst flats were not available for similar structural investigations at Cheshire House the outcomes are likely to be similar. As such gas provider Cadent served Enfield Council with formal notices of disconnection for both blocks. Shropshire House - 27th June 2023 & Cheshire House - 30th September 2023. LBE set out a request for an extension to these dates to allow for time deliver the alternative heating and hot water facilities. Cadent have agreed to an extension with a cutoff date of 23rd January 2024 with the provision that all gas mitigation measures are in place and continue to be in place until such time.
14. Furthermore, additional structural strengthening is required to the block to meet the lower (17kn) requirements. Additional investigations are required to develop the designs for these works and therefore this report does not seek approval for these works.
15. Based on the findings of the interim report, the Council has proactively engaged with Cadent and has, in consultation instigated a program of safety measures, to mitigate any immediate risks to residents and the building.
16. The notice of disconnection means that unless the Council takes immediate steps to procure and install an alternative heating and hot water source, will leave residents without appropriate facilities, thus requiring the Council to decant the 204 homes to temporary housing, at significant cost and disruption.
17. To enable the DH installation an electrical upgrade of the communal lateral mains and by UKPN will be necessary. Inspections of the lateral mains in both blocks indicated that their condition is poor, and a full replacement will be required. Approval for the estimated costs of these works is included in this report.
18. The blocks are known to contain asbestos in cupboards housing the hot water cylinders. These cupboards have been sealed off and any repairs are carried out in the presence of an approved asbestos contractor. It is proposed to remove these immediately on completion of the new heating system in each property. The removal will require remedial works to the kitchens that will include decorations and new flooring.
19. A client held contingency of 25% is sought to allow for unknown site conditions and any other variations required and is based on projects delivered lately in the currently challenging market place.
20. The framework proposed followed a procurement process using open procedure under OJEU contract notice 2019/S 149-366072, dispatched by Procurement for Housing on 31/07/2019 and officially posted to OJEU by Tenders Electronic Daily on the 02/08/2019 in accordance with the Public Contracts Regulations 2015. 89 expressions of interest were received with 28 final bids submitted.
21. Procurement for Housing (PfH) undertook an in-depth analysis of all tenders received. The submissions were checked for material completeness and screened to ensure that all mandatory requirements were met by the bidding suppliers, prior to the tender evaluation being undertaken. This process excluded 2 supplier bids due to not meeting Supplier Qualification requirements that were pass/fail. After the satisfactory completion of the 10-day Alcatel (standstill) period, PfH undertook notification of the final formal award.

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22. The quality questions weighted at 60% were based on the following criteria:
- Customer Services
  - Management Information & Reporting
  - Procurement for Housing Support & Growth
  - Escalation Procedures
  - Online Functionality
  - Tenant/PfH Member Engagement
  - Value for Money
  - Account Management
  - Ordering Functionality
  - Social Impact
  - Service Delivery & Delivery Performance
  - Innovation
  - Mobilisation
23. The Framework commenced on 31st January 2020. The contract award notice was placed on My Tenders by Procurement for Housing on 04th February 2020 and was published in OJEU on 06/02/2020. The contract award notice reference is: 2020/S 027-063338

#### **Relevance to the Council's Corporate Plan**

The contract will support the following objectives from the Corporate Plan:

24. Good homes in well-connected neighbourhood: The programme will improve the quality and safety of existing homes and therefore positively impact on the wellbeing and quality of life for our residents.
25. Sustain health and confident communities: Improving the existing homes where people desire to live will help to create and maintain healthy and confident communities
26. An economy that works for everyone: Ensuring residents are able to fully participate in activities within their neighbourhood

#### **Main Considerations for the Council**

27. The Council has statutory duties under the Landlord and Tenant Act (1985) and Commonhold and Leasehold Reform Act (2002) to maintain its buildings in a good state of repair, this is inclusive of providing heating and hot water.

#### **Safeguarding Implications**

28. The works will require Contractors to enter residents' homes. Accordingly, Contractors will require Disclosure and Barring Service (DBS) checks. Compliance with the Councils Safeguarding Policy will also be mandatory for all contractors and employees.
29. A dedicated, Resident Liaison Officer (RLO) will be appointed as part these works. There is a community hall space within Shropshire House where the RLO will regularly attend and manage communications with residents whilst maintaining

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safe working arrangements in line with the Government Guidelines around Covid-19.

**Public Health Implications**

30. The works will improve the safety and general living conditions for current and future residents aligning with the provisions of the Enfield Joint Health and Wellbeing Strategy which identifies the importance of housing as a determinant of health. The works will:
  - Help facilitate the safe removal of the gas and provide a new sustainable heating and hot water service offering better value to the occupants and is environmentally friendly.
31. The Contractors will be operating within the governments Covid Secure and CLC guidelines. They will be required to provide detailed method statements and risk assessments for each activity. The Council, Construction Manager and Principal Designer will review and comment on these plans prior to the commencement of activities.
32. All bids received allow for the currently known Covid related restrictions. It should be noted that additional restrictive measures may be introduced nationally or locally which may have negative impact on project delivery.
33. A comprehensive communications strategy will be put in place and continually reviewed with the dedicated Resident Liaison Officer (RLO) appointed for the project. The RLO's duties includes enabling access and supporting residents whilst activities, surveys and works are carried out to their home.

**Equalities Impact of the Proposal**

34. The framework sets out requirements for the Contractor to address social value and help the Council meet its obligations under the Equalities Act 2010 and its Public Sector Equality Duties (PSED). These include promoting local jobs and contract opportunities, training, work experience, apprenticeships and supporting local community projects.
35. A robust impact Equalities Impact Assessment (EqIA) enclosed with this report as appendix 2 was undertaken to ascertain the impact of the proposed works on the residents at Shropshire & Cheshire House. The planned works will improve the safety and general living conditions for all current and future residents. This decision will facilitate the safe removal of the current gas system and will provide a new, sustainable heating and hot water services to residents, which offers better value and reduces negative environmental impacts. Based on this assessment it is anticipated that the works will have a positive impact on all our residents and their families, and not expected to have any adverse impacts on any groups listed under protected characteristics defined under the Equality Act 2010.

However, people with disabilities will be profiled by the Resident Liaison Officer (RLO) and necessary adaptations where required will be referred to the Council's aids and adaptations team for an assessment as early as possible and pre-commencement of any works. This will ensure the works, its delivery and equipment installed takes due regard of their specific needs.

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36. The impact assessment will be reviewed regularly throughout the various stages of the project to ensure that once on site the delivery of the works and any impact is updated to reflect any changes.

**Environmental and Climate Change Considerations.**

37. An options appraisal study was undertaken around alternative heating and hot water solutions for consideration. A comparison of all against a set of Criteria was undertaken and District Heating was recommended as the best solution for these blocks.
38. The appraisal in the table below takes into account the considerations within the report and ranks each option with a weighted measurement. This provides LBE with a scoring system to provide the most economical and advantageous option. The scoring system can be used to gauge the effectiveness of each option, with a significant higher score showing there are added benefits in a range of this option, whilst a low scoring mark shows there are significantly less benefits with the option.
39. This project represents a significant investment by the Council in housing retrofit, demonstrating our commitment to this as a climate action priority.

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Option	Carbon Dioxide Emissions			Estimated Utility Costs			Buildability/Sequencing/Disruption			Capital Expenditure			FM/Maintenance Expenditure			Total Score
	Score	Weight %	Weighted score	Score	Weight %	Weighted score	Score	Weight %	Weighted score	Score	Weight %	Weighted score	Score	Weight %	Weighted score	
Electric Boilers	2	10	20	2	30	60	10	10	100	10	30	300	4	20	80	560
Communal Gas Boilers	1	10	10	6	30	180	6	10	60	8	30	240	8	20	160	650
Communal ASHP	3	10	30	5	30	150	6	10	60	8	30	240	10	20	200	680
Communal GSHP	3	10	30	5	30	150	2	10	20	4	30	120	3	20	60	380
District Heat Network	10	10	100	10	30	300	6	10	60	10	30	300	10	20	200	960

Option	Overall Ranking based on soring system method
Electric Boilers	4th
Communal Gas Boilers	3rd
Communal ASHP	2nd
Communal GSHP	5th
District Heat Network	1st

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40. The new District heating system proposed will connect to the expanding council-owned Energetik community heat network. This will go some way to decreasing bills for residents as Energetik offer competitive rates, whilst reducing carbon emissions from the residential sector in accordance with Enfield's Climate Action Plan and national targets.
41. Generally, and specifically, where possible the materials to be specified are those with the lower/least environmental impact commensurate with the required performance standards being met such as water based rather than solvent-based coatings. Where appropriate and relevant proposed materials and works will be in accordance with Approved Document L "conservation of fuel and power". It is intended that the solution will ensure the building achieves a minimum Sap of 86 (Energy Performance Certificate B).
42. This project represents a significant investment by the Council in housing retrofit, demonstrating our commitment to this as a climate action priority.

**Risks that may arise if the proposed decision and related work is not taken**

43. Risks associated with not proceeding with the recommended award and the impact on subsequent works are detailed in the below table.

Risk Category	Risk	Mitigation	Likelihood	Impact
Statutory/Legal	The Council is in breach of its statutory and regulatory duties as landlord	Interim measures have been instigated to ensure residents remain safe, until such time as the gas service is decommissioned, thus mitigating the immediate need to decant the block	High	High
Financial	Failure to decommission and provide an alternative heating source, will required decant of 204 homes into Temporary Accommodation, plus the costs associated with disbursements, which will be significant.  Failure to undertake works may result in legal action and associated direct and indirect costs.	Interim measures as described above.  The award of contracts to ensure that alternative heating provision is made prior to the termination of the gas supply  Housing Management are working on emergency decant plans as part of a cross department working group to minimise impacts.	High	High
Reputational	Failure to take action will result in significant reputational damage, given the national press coverage of similar scenarios in other London boroughs.	Interim measures as above.  Proactive engagement with Cadent  The award of contracts to ensure that alternative	High	High



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		<p>heating provision is made prior to the termination of the gas supply.</p> <p>Proactive engagement with residents</p> <p>Notification to the press team</p>		
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**Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

44. Risks associated with awarding the District Heating Contract & associated contracts as advised and mitigating actions:

<b>Risk</b>	<b>Mitigating action</b>	<b>Residual risk high/low</b>
Necessary skills, and experience to deliver the works under Construction Management.	<p>The proposed company are highly experienced in delivering these types of works and have demonstrated and provided such evidence in the technical qualification submission of their framework tender.</p> <p>The weighting criteria applied to the framework ITT was split at 60% Quality /40% price where written statements required under the quality submissions were assessed.</p>	Low
Compliance with 2015 Public Contracts Regulations	A compliant tender exercise was undertaken by Renewables & Energy Efficiency Works and Associated Consultancy Framework in accordance with the Public Contracts Regulations 2015 (PCR) as well as carrying out a compliant call off.	Low
Contractual matters	The Councils requirements are built into the JCT Design & Build Contract 2016 Edition (V2) and tender documentation.	Low
Performance of the Contractors.	Structured and regular design, technical and progress meetings to be held to monitor programme and performance. Robust systems in place to capture, share and store information from design to completion of works.	Low
Coronavirus	Service continuity maintained. Please refer to Appendix 1.	Medium

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## **Financial Implications**

45. The budget for this project is to be funded from the existing investment programme by reviewing immediate priorities, these costs are therefore included in the HRA 30-year business plan.

## **Legal Implications**

46. Under Section 1(1) Localism Act (2011) the Council can do anything individuals' generally may do provided it is not prohibited by legislation and subject to public law principles. There is no expressed prohibition, restriction or limitation contained in statute law against the use of this power in this manner proposed in this report.
47. Under Section 111 of the Local Government Act (1972) the Council has power to do anything (whether involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.
48. The Landlord & Tenant Act 1985, as amended by the Homes (fitness for Human Habitation) Act 2018 requires landlords to ensure that property (under their ownership and/or control) is fit for human habitation on the occupation date and for the duration of a contract. It is no longer possible for Landlords to argue that works are not required merely because there is no disrepair. Repairing obligations imposed under Section 11 of the Landlord & Tenant Act (1985) covers the structure, and the exterior including drains, gutters, external pipes, installations in homes including water, gas, electricity and sanitation with the Landlords obligations extending to any part of the building in which they have an estate or interest.
49. The value of the works is below the public procurement threshold and therefore the Council is not required to apply any of the procedures set out in under regulations 26-32 of the Public\_Contract Regulations 2015 (PCR 2015). The use of a framework is a compliant route to award, provided that regulation 33 of PCR 2015 is complied with and the Council's Contract Procedure Rules (CPRs) continue to apply. Due diligence is required to be conducted on the proposed framework agreement to ensure that Enfield Council are legally entitled to use it and that the framework agreement itself has been set up lawfully. Any award under a framework agreement must be follow the procedures set out under that framework agreement. The contract procured must be based on the terms and conditions set out under the Framework Agreement and in a form approved by Legal Services on behalf of the Director of Law and Governance.
50. The contract procured must be consistent with the procurement for Housing Framework and in a form approved by Legal Services on behalf of the Director of Law and Governance and must be executed as a Deed by affixing the Council's seal.
51. In respect of any contract with a value of £1m and over, the Council's CPR (7.2) state that the contractor must be required to provide sufficient security. 'Sufficient security', means one of the following: (i) parent company, ultimate holding company or holding company guarantee where their finances prove acceptable; (ii) director's guarantee or personal guarantee where their finances prove acceptable; (iii) performance bond, retained funds or cash deposit; or (iv) any other security as determined by Financial Management Services and/or Legal Services. Evidence

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of the form of security required or why no security was required must be stored on the E-Tendering Portal for audit purposes. The framework agreement to be used may contain its own form of security.

52. As the value of the contract exceeds £500,000, the contract must be executed as a Deed by affixing the Council's seal and the decision to award must be taken as a key decision. Consequently, all procedures for the taking of a key decision must be carried out and concluded before the decision can be implemented.
53. The Council must comply with its obligations relating to the obtaining of best value under the Local Government (Best Value Principles) Act (1999).
54. There must be adequate budgetary provision to enter into this contract.

**Workforce Implications**

55. At this time this report carries no expressed or implied implications for the Councils current workforce as the described services will neither be carried out nor completed by its employees.
56. A separate Employers Agent Consultancy appointment has been made, to ensure that the Council has adequate resources deployed to manage a complex project of this nature and ensure as Client, that the required level of Governance and Assurance is in place to ensure a successful outcome for residents.

**Property implications.**

57. HRA Property Implications: These are found throughout this report. Corporate Implications: None

**Other Implications - Procurement**

58. A business case approving the route to market was presented and approved by Procurement Services.
59. A compliant tender exercise was undertaken by Renewables & Energy Efficiency Works and Associated Consultancy Framework in accordance with the Public Contracts Regulations 2015 (PCR).
60. In accordance with the CPRs the Supplier must be required to provide sufficient security. Evidence of the form of security required, or why no security was required, must be stored and retained for audit purposes. As the contract is over £500k the service must ensure that sufficient security has been considered
61. The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of executed contracts will be undertaken on the London Tenders Portal (LTP), including future management of the contract.
62. In accordance with the Councils CPR's the service must ensure that a Contract Manager is nominated and allocated to the procurement once uploaded onto the LTP, and that the monitoring requirements are adhered to.

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63. The awarded contract will be promoted to Contracts Finder to comply with the Government's transparency requirements.

**Options Considered**

64. The cost of decants and the timescales to identify suitable homes are significant and do not provide the Council with a practical medium to long term solution regarding the future of residents or the building.
65. The option to competitively tender this specific contract was considered, however due to the urgency of these works, the availability of a framework and available benchmarking cost data to validate value for money this route is recommended. Contractors are assessed for suitability prior to being awarded the framework, the council can also draw on the support of the framework provider.

**Conclusions**

66. Given the detrimental impact on residents, from the removal of the gas service by Cadent the Council must act swiftly to secure the safety and comfort of residents and the security of its assets.
67. It is therefore recommended that approval be given to award the Contract for the design and installation of the heating and hot water system at Shropshire & Cheshire House.

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**Appendices**

Appendix 1 – Part 2 Confidential Report